

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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VINCENT MASINO, KEITH LOSCALZO, :
FRANCISCO FERNANDEZ, ANTHONY FASULO, :
PHILIP A. FAICCO and JAMES KILKENNY, as :
Trustees and Fiduciaries of the PAVERS AND ROAD :
BUILDERS DISTRICT COUNCIL WELFARE, :
PENSION, ANNUITY AND APPRENTICESHIP, :
SKILL IMPROVEMENT AND TRAINING FUNDS, :

Plaintiffs, :

-against- :

PERMA PAVE CONTRACTING CORP., :

Defendant. :
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ORDER

09-CV-4682 (ENV) (JMA)

VITALIANO, D.J.

Plaintiffs Vincent Masino, Keith Loscalzo, Francisco Fernandez, Anthony Fasulo, Philip A. Faicco, and James Kilkenny, as Trustees and Fiduciaries of the Pavers and Road Builders District Council Welfare, Pension, Annuity and Apprenticeship, Skill Improvement and Training Funds, brought this action against Perma Pave Contracting Corp. pursuant to the Employee Retirement Income Security Act and the terms of the Collective Bargaining Agreement in effect between the parties, to recover unpaid contributions, interest, attorneys' fees, and costs.

Defendant was served with the Complaint on November 5, 2009. After defendant failed to appear or otherwise respond to the Complaint, plaintiffs moved for default judgment on April 27, 2010. On June 16, 2010, the Court granted plaintiffs' motion for default judgment and referred the action to Magistrate Judge Joan M. Azrack to conduct an inquest.

Following a review of the relevant submissions, Magistrate Judge Azrack issued a Report and Recommendation ("R&R") on October 14, 2010, recommending that judgment be entered

against defendant in the amount of \$4,360.56, reflecting \$1,473.85 in unpaid interest, \$2,453.25 in attorneys' fees, and \$433.46 in costs. No objections to Judge Azrack's R&R have been timely filed.

In reviewing a report and recommendation, the court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Moreover, in order to accept a magistrate judge's report and recommendation where no timely objection has been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record below, the Court finds Magistrate Judge Azrack's R&R to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Accordingly, for the reasons stated in the R&R, the plaintiffs are awarded \$1,473.85 in unpaid interest, \$2,453.25 in attorneys' fees, and \$433.46 in costs, for a total of \$4,360.56.

The Clerk is directed to enter Judgment and to close this case.

SO ORDERED.

Dated: Brooklyn, New York
November 17, 2010

s/ENV

ERIC N. VITALIANO
U.S.D.J.